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EXAMINER

SHEWAREGED, BETELHEM

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/783,610
Filing Date: February 19, 2004
Appellant(s): KASPERCHIK ET AL.

Gary P. Oakeson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 09/16/2009 appealing from the Office action mailed 06/11/2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 6,849,149 B2	Otaki et al.	01-2005
US 4,893,887	Coates	01-1990
US 4,378,392	Segel	03-1983
US 2002/0015292 A1	Pritchett et al.	02-2002
US 2002/0004134 A1	Shima et al.	01-2002
US 2001/0020636 A1	Koskenmaki et al.	09-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-5, 7-13 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otaki et al. (US 6,849,149 B2) in view of Coates (US 4,893,887) and Segel (US 4,378,392).
2. Otaki teaches a laminate comprising a transparent protective layer 206, a hologram 201, a transparent adhesive 205b, a recorded information 202, and a transparent film 203, in the order thereof (Fig. 10 and col. 26, line 47 thru col. 37, line 63). The transparent protective layer 206 meets the claimed protective layer, the hologram 201 meets the claimed metallic layer, the transparent adhesive 205b meets the claimed adhesive layer, and the transparent film 203 and the information 202 meet

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the claimed printable layer. The transparent film can be made of polyethylene terephthalate or polyethylene (col. 34, line 30 and col. 32, line 46). In order to improve the writing quality, a writing layer formed by coating a coating composition with fine particles, such as silica, being incorporated therein is provided on the transparent film (col. 34, lines 53-57). The writing layer meets the claimed ink receiving layer. The transparent protective film is made of acrylic (col. 32, line 46), and has a thickness of 10-100 μm (col. 32, line 43). Otaki does not teach having a light stabilizer additive in any of the layers. However, Segel teaches a laminate including an adhesive layer (Fig. 1, col. 4, line 45), wherein the adhesive layer comprises UV light stabilizers (col. 6, line 7). Otaki and Segel are analogous art because they are from similar problem solving area in relation to adhesives. At the time of the invention it would have been obvious to a person of ordinary skill in the art to combine the UV stabilizer containing adhesive layer of Segel with the invention of Otaki, and the motivation would be, as Segel suggests, controlling the UV light stabilizing property of the layer (col. 6, line 6).

3. Otaki does not teach a metal hologram. However, Coates teaches a metal hologram having a thickness of 0.02 to 0.1 μm (col. 2, line 42). Coates does not teach adding a colorant to the metal hologram. However, Official Notice is taken because changing the color of an article by adding a colorant is a common knowledge. At the time of the invention it would have been obvious to a person of ordinary skill in the art to control/change the color of the metal hologram by adding the desired colorant. Otaki and Coates are analogous art because they are from the same field of endeavor that is the hologram laminate art. At the time of the invention, it would have been obvious to a

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person of ordinary skill in the art to combine the metal hologram of Coates with the invention of Otaki in order to provide a reflective and durable hologram.

4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Otaki et al. (US 6,849,149 B2) in view of Coates (US 4,893,887).

5. Otaki teaches a laminate comprising a transparent protective layer 206, a hologram 201, a transparent adhesive 205b, a recorded information 202, and a transparent film 203, in the order thereof (Fig. 10 and col. 26, line 47 thru col. 37, line 63). The transparent protective layer 206 meets the claimed protective layer, the hologram 201 meets the claimed metallic layer, the transparent adhesive 205b meets the claimed adhesive layer, and the transparent film 203 and the information 202 meet the claimed printable layer. The transparent film can be made of polyethylene terephthalate or polyethylene (col. 34, line 30 and col. 32, line 46). In order to improve the writing quality, a writing layer formed by coating a coating composition with fine particles, such as silica, being incorporated therein is provided on the transparent film (col. 34, lines 53-57). The writing layer meets the claimed ink receiving layer. The transparent protective film is made of acrylic (col. 32, line 46), and has a thickness of 10-100 μm (col. 32, line 43). Otaki does not teach a metal hologram. However, Coates teaches a metal hologram having a thickness of 0.02 to 0.1 μm (col. 2, line 42). Coates does not teach adding a colorant to the metal hologram. However, Official Notice is taken that changing the color of an article by adding a colorant is a common knowledge. At the time of the invention it would have been obvious to a person of ordinary skill in

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the art to control/change the color of the metal hologram by adding the desired colorant. Otaki and Coates are analogous art because they are from the same field of endeavor that is the hologram laminate art. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the metal hologram of Coates with the invention of Otaki in order to provide a reflective and durable hologram.

(10) Response to Argument

The Rejection of Claims 1-5, 7-13 and 49 over Otaki in view of Coates and Segel.

Appellant's argument is based on that the spatial relationship between the layers of Otaki and those of the claimed invention do not match. Appellant indicates that that "Otaki teaches that the volume hologram layer is above, or closer to the viewing surface of the compositional layer shown in FIG. 10 (the viewing surface being the surface opposite the substrate layer)". Appellant states that "even assuming that the holographic layer was analogous to the claimed metallic layer, its relationship in the printed composite does not meet the spatial relationship requirements of claim 1". Appellant further states that "Specifically, the volume hologram layer (metallic layer) would not be visible through the information or printable layer".

This argument is not persuasive for the following reasons. First, the claimed invention does not exclude the presence of other layers. Second, Otaki teaches an adherend substrate 204 adhered to the transparent film 203 via the transparent adhesive 205c (see Fig. 10, col. 27, lines 24-33). Otaki also teaches an article opposite

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the hologram laminate can be seen through the adherend substrate (204) (col. 26, lines 54-58). Therefore, as with the claimed invention, the hologram 201 is visible through transparent film 203 and adherend substrate 204.

Appellant further argued that Segel does not teach or suggest a printable layer including an ink receiving layer as required by claim 1. Appellant states that “the layer taught by Segel is not configured to be printed upon, is printless, and does not comprise an ink receiving layer”. Appellant also states that “In Segel, the printing is not on the laminate; it is on the underlying substrate and is merely protected by the laminate”.

This argument is not persuasive for the following reason. Segel is not used to teach a printable layer containing UV stabilizer, thus whether the transparent film of Segel is printable or not is not required. However, the reference of Segel is used to teach an adhesive layer containing UV stabilizer (see col. 6, line 7); and, in the rejection, the adhesive layer containing UV stabilizer of Segel was combined with the invention of Otaki.

The Rejection of Claim 14 over Otaki in view of Coates

Appellant’s argument is based on that neither Coates nor Otaki teach a metallic foil. Appellant comments that “A metallic foil, as commonly known, is an independent, thin sheet of self-supporting metal that is separate and distinct from the other layers (Application page 7, lines 17-18). Appellant states that claim 14 specifically claims a metallic foil layer”. Appellant concludes that “Foil should not be confused with metallic layers that are deposited on substrates, and which are not independent or self-

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supporting". Appellant also concludes that "The fact that the metal layer of Coates is always formed and mounted on a substrate is evidence that it is not independent from the substrate and is also evidence that it is either too thin or not cohesive enough to support itself".

This argument is not persuasive for the following reasons. Even though the metal hologram of Coates is provided via sputtering and vacuum depositing, there is nothing that suggests the layer is not self supporting after it has been formed. The type of metal is substantially identical to the type of metal of the claimed invention, and the thickness of the metal hologram is within the thickness of the claimed invention; therefore, the reference provides enough evidence to conclude that after the metal hologram of Coates is formed, a metal foil would be created. In other words, the metallic layer of Coates is a functional equivalent of the claimed metallic foil. Also the claimed metallic foil is an inseparable part of the claimed composite material. In view of the claimed invention, the claimed composite material cannot be interpreted as a composite material having only the metallic foil. The claimed metallic foil is one of the three layers of the claimed composite material. The combination of Otaki and Coates teaches all the claimed layers including the claimed metallic layer/foil. However, the process the metallic layer/foil is formed in the composite material relates to a process limitation.

Furthermore, the claimed metallic foil is not the only part of the claimed composite material; it is one part of the claimed composite material. In addition, a metallic foil can be formed by sputtering or any other deposition method (see [0069] of

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Pritchett et al. (US 2002/0015292 A1), [0065] of Shima et al. (US 2002/0004134 A1) and [0039] of Koskenmaki et al. (US 2001/0020636 A1).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Betelhem Shewareged/

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